

Application No. 10/539231
Reply to Action dated 10/08/2010

REMARKS

Applicants respectfully request favorable reconsideration and reexamination of this application.

Claim 11 has been revised to include all of the features of claim 25. Claim 25 has been canceled to track with claim 11. Claim 11 further is supported by, for example, Figs. 3-5 and 10B.

There is no new matter. Claims 11-18, and 20-24 are pending.

Claim Rejections – 35 USC § 103

Claims 11-14, 16-18, 20-22, 24, and 25 were rejected under 35 USC 103(a) as being unpatentable over Hiramatsu et al. (WO01/196882, English version referenced in the rejection is US 2002/0155616) in view of Jenkins et al. (US 4847050) or Lee et al. (US 2005/0013746). Applicants traverse the rejection.

Regarding claim 11, the rejection conceded that Hiramatsu et al. does not teach the adhering liquid moving groove feature. Neither Jenkins et al. nor Lee et al. remedy this deficiency.

The rejection conceded that Jenkins et al. teaches a plurality of projections 30 and channels 32 provided only at a bottom of the container space (see Fig. 2).

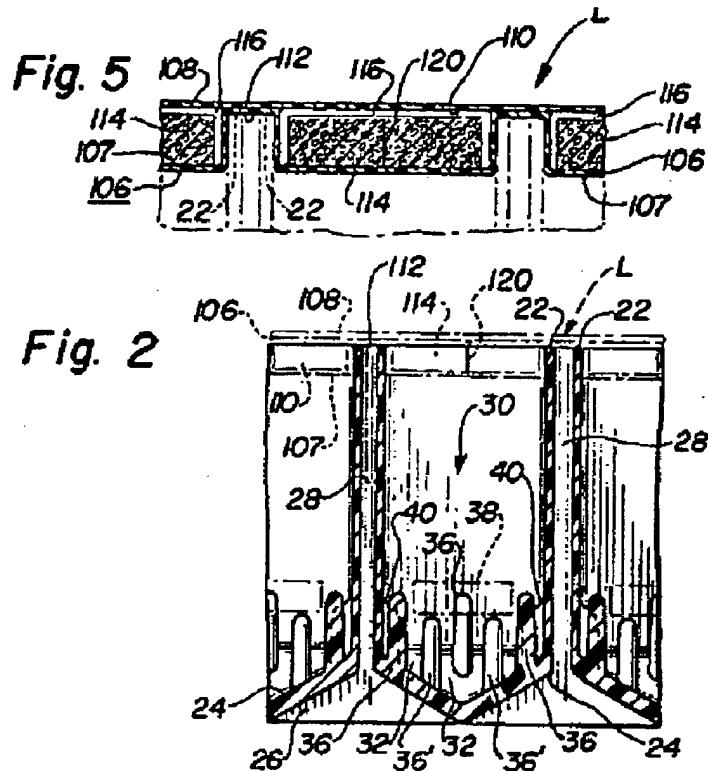
The rejection stated that because Jenkins et al. teaches that these projections 30 and the channels 32 therebetween may be disposed in any convenient orientation or at any convenient location within the container 10, the channels 32 may be provided to extend from the upper opening flush with the upper surface of the receptacle body. Applicants respectfully disagree.

Jenkins et al. teaches that the purpose of the projections 30 and channels 32 are for dissolving a tableted material in a hydrating liquid, in cooperation with sonication-improving projections 30 under ultrasonic application (see column 5, line 38 to column 6, line 7). Jenkins et al. also teaches that the material to be dissolved must migrate towards and be confined within the recess 38, wherein the structural relationship between the projections 30 serves to define the recess 38. Jenkins et al. teaches the recess 38 is located at the bottom of the receptacle.

Accordingly, Jenkins et al. teaches the “convenient location” and “convenient orientation” of the projections 30 and channels 32 to be limited in such a way as to define the recess 38 at or near the bottom of the receptacle. Thus, the projections 30 and channels 32

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cannot be disposed in "any" orientation or in "any" location as suggested by the rejection. Further, Jenkins et al. defines a "convenient location" and a "convenient orientation" for the projections 30 and channels 32 because Jenkins et al. teaches a device requiring a self-healing pad 114 of a lid structure (106, 108).



Figs. 5 and 2 of Jenkins et al. (US 4847050)

Jenkins et al. is directed towards a lid structure formed of conjoined upper and lower sheets of material and a receptacle formed therein which receives an elastomeric pad (see Abstract). Jenkins et al. teaches that disposed within each of the volumes 110 is a thermoplastic elastomer pad, wherein the pad 114 is received within each enclosed volume 110 and is sized such that a gap 116 is defined between the walls of the receptacle and the undersurface of the upper sheet 108 (see column 8, line 35-47). Jenkins et al. teaches that the self-healing pad of elastomer material is received within the enclosed volume (see claim 1). Providing projections 30 and/or channels 32 at the same location as the pad would interfere with the pad 114, preventing the device from working as originally intended. Accordingly, Jenkins et al. teaches

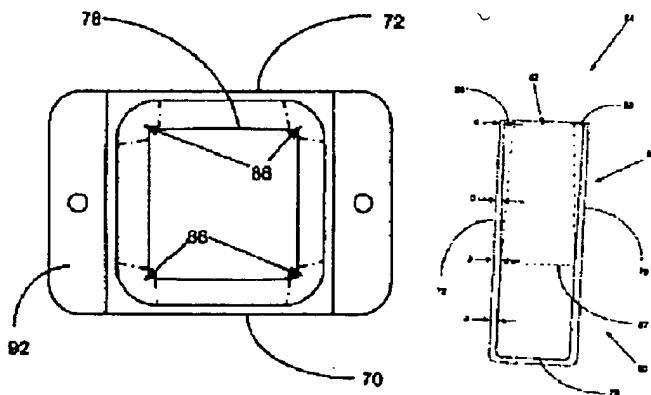
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that the location where the pad 114 is provided in the volume 110 is not a convenient location for the projections 30 and channels 32. Jenkins et al. teaches that the pad 114 is provided at the upper opening flush with the upper surface of the receptacle (see Figs. 5 and 2). Thus, Jenkins et al. teaches that the location of the upper opening flush with the upper surface of the receptacle is not a convenient location and/or convenient orientation for providing the projections 30 and channels 32.

In contrast, claim 11 recites an inner surface provided with an adhering liquid moving groove extending from the upper opening flush with the upper surface of the receptacle body to an intermediate position short of the bottom of the receptacle body. Jenkins et al. teaches away from this feature. Therefore, Jenkins et al. fails to remedy the deficiencies of Hiramatsu et al. conceded in the rejection.

Lee et al. also fails to remedy the deficiencies of Hiramatsu et al. Hiramatsu et al. in view of Jenkins et al. or Lee et al. do not teach an adhering liquid moving groove being provided without a fillet.

One skilled in the art would not consider a fillet to be a groove. A groove is commonly known to be a “channel or depression” (<http://www.merriam-webster.com/dictionary/groove>). Lee et al. does not teach a channel or a depression in the cuvette. Lee et al. teaches a cuvette having a wall transition fillet 86 (see Abstract, claim 1, Figs. 6A and 8). Lee et al. teaches that the fillet is a rounded surface easing of an interior corner (see Figs. 6A and 8 of Lee et al.).



Figs. 6A and 8 of Lee et al.

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Further, Lee et al. teaches that the wall transition fillet 86 are intended to cancel the wicking-up function due to capillary action. Lee et al. teaches that the anti-wicking fillet 86 is designed to "completely minimize" capillary wicking so that cuvette washing may restore the used cuvette and "completely minimizes" liquid from moving to the bottom of the cuvette (see column 7, lines 7-25). In contrast, claim 11 recites a groove for downwardly moving the liquid which adheres on a peripheral portion of the upper opening of the well and on the closure by overcoming a surface tension of the adhering liquid.

Further, Lee et al. specifically does not use the term "groove" to describe the wall transition fillet 86, but Lee et al. uses the term "groove" to describe the structure 18 (see paragraph [0028], see also Fig. 2). This fact clearly evidences that Lee et al. teaches the difference between a groove and a wall transition fillet. The cuvette taught in Lee et al. does not have a groove.

Thus, the rejection erroneously construed the wall transition fillet 86 as being an analogous structure to the groove in the claim 11. Further, regarding claim 21, Lee et al. clearly does not teach a groove having a V-shaped in section. Therefore Lee et al. does not remedy the deficiencies of Hiramatsu et al. conceded in the rejection.

For at least the above reasons, claim 11 is patentable over Hiramatsu et al. in view of Jenkins et al. or Lee et al. Claims 12-14, 16-18, 20-22, 24, and 25 are also patentable for at least the same reasons as claim 11 from which they depend. Applicants respectfully request a favorable reexamination and reconsideration of the claims.

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In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned attorney-of record, Douglas P. Mueller (Reg. No. 30,300), at (612) 455-3804.

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902
(612) 455-3800

By:

Douglas P. Mueller
Reg. No. 30,300
DPM/ajk

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